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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/647,833	10/05/2000	Kouichi Miyamoto	AA307F	4304

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EXAMINER

STEPHENS, JACQUELINE F

ART UNIT	PAPER NUMBER
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3761

DATE MAILED: 04/19/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No. 09/647,833	Applicant(s) MIYAMOTO ET AL.	
	Examiner Jacqueline F Stephens	Art Unit 3761	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 22 March 2004.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1 and 3-12 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 12 is/are allowed.
- 6) ☒ Claim(s) 1,3-5 and 11 is/are rejected.
- 7) ☒ Claim(s) 6-10 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 05 October 2000 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>3/22/04</u> . | 6) <input type="checkbox"/> Other: _____  |

## DETAILED ACTION

### *Response to Arguments*

1. Applicant's arguments with respect to claims 1, 3-12 have been considered but are moot in view of the new ground(s) of rejection. The rejection is based on a previously cited reference Saisaka USPN 5624424, however, the reference is being applied differently.

### *Claim Rejections - 35 USC § 102*

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

3. Claims 1, 3-5, and 11 are rejected under 35 U.S.C. 102(a) as being anticipated by Saisaka et al. USPN 5624424.

Regarding claim 1, Saisaka discloses an absorbent article having a longitudinal center line and a lateral center line, comprising:

(a) a containment assembly having a rear waist region, a crotch region, a front waist region, a pair of longitudinal edges, a body-facing surface, and a garment-facing surface opposite the body-facing surface (Figures 1 and 2). The containment assembly comprises a topsheet **14**, a backsheet **21** joined to the topsheet, and an absorbent core **15** positioned between the topsheet and the backsheet. The containment assembly

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further comprises a pair of barrier leg cuffs **17** (Figure 5) having a proximal edge and a distal edge and being positioned adjacent to the longitudinal edges of the containment assembly.

(b) a pair of rear ear panels (shown generally as 5 in Figure 15) extending laterally outwardly from the proximal edges of the barrier leg cuff in the rear waist region;

(c) a pair of front ear panels (shown generally as 4 in Figure 15) extending laterally outwardly from the proximal edges of the barrier leg cuff in the front waist region;

(d) a reinforcement nonwoven **37/41/42/44** joined to an inner-facing surface of the backsheet (the nonwoven panel is indirectly joined to the inner-facing surface of the backsheet by its position with the topsheet; Figure 15 and col. 13, lines 27-29) and to at least one of either the garment facing surface of the rear ear panels or the garment facing surface of the front ear panels so as to form a portion of the garment facing surface of the absorbent article, the reinforcement nonwoven not substantially overlapping the containment assembly, wherein the reinforcement nonwoven does not extend the entire longitudinal length of the absorbent article.

Regarding claims 3 and 4, see Figure 7

Regarding claim 5, see Figure 15.

Regarding claim 11, Saisaka discloses an absorbent article having a longitudinal center line and a lateral center line, an inner surface and a garment facing surface, comprising:

(a) a containment assembly having a rear waist region, a crotch region, a front waist region, a pair of longitudinal edges, a body-facing surface, and a garment-facing surface opposite the body-facing surface (Figures 1 and 2). The containment assembly comprises a topsheet **14**, a backsheet **21** joined to the topsheet, and an absorbent core **15** positioned between the topsheet and the backsheet. The containment assembly further comprises a pair of barrier leg cuffs **17** (Figure 5) having a proximal edge and a distal edge and being positioned adjacent to the longitudinal edges of the containment assembly.

(b) a pair of rear ear panels (shown generally as 5 in Figure 15) extending laterally outwardly from the proximal edges of the barrier leg cuff in the rear waist region;

(c) a pair of front ear panels (shown generally as 4 in Figure 15) extending laterally outwardly from the proximal edges of the barrier leg cuff in the front waist region;

(d) a reinforcement nonwoven **37/41/42/44** joined to an inner-facing surface of the backsheet (the nonwoven panel is indirectly joined to the inner-facing surface of the backsheet by its connection with the topsheet; Figure 15 and col. 13, lines 27-29) and to at least one of either the garment facing surface of the rear ear panels or the garment facing surface of the front ear panels so as to form a portion of the garment facing

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surface of the absorbent article, the reinforcement nonwoven not substantially overlapping the containment assembly, wherein the reinforcement nonwoven provides topsheet-like benefits in that the nonwoven is a soft material (col. 13, lines 29-31), which is a benefit desired and often found on a topsheet material.

***Allowable Subject Matter***

4. Claims 6-10 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims. The following is a statement of reasons for the indication of allowable subject matter: The examiner has applied the Saisaka reference with sheet 37/41/42/44 as the reinforcement nonwoven, as the reinforcement panels 22 are not joined to a garment facing surface of the ear panels. Using this interpretation of the reference, the overall claimed combination of a containment assembly having a topsheet, backsheet, absorbent core, leg cuffs, rear and front ear panels and a reinforcement nonwoven joined to an inner-facing surface of the backsheet and a garment facing surface of the rear ear panels where the reinforcement nonwoven is joined to the longitudinal edges of the containment assembly in the crotch region is neither anticipated nor rendered obvious by the prior art of record.

5. Claim 12 is allowed. The reinforcement nonwoven 37/41/42/44 is not used to provide stability or stretch in a transverse direction, but rather to provide an enhanced fit

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in the waist region. Therefore, the prior art does not teach or render obvious the tensile strength of the reinforcement nonwoven in the transverse direction.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jacqueline F Stephens whose telephone number is (703) 308-8320. The examiner can normally be reached on Monday-Friday 9:00-5:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Calvert can be reached on (703)305-1025. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Jacqueline F Stephens  
Examiner  
Art Unit 3761



April 15, 2004